

REMARKS**INTRODUCTION:**

In accordance with the foregoing, claim 1 has been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-26 are pending and under consideration. Reconsideration is respectfully requested.

ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116:

Applicants request entry of this Rule 116 Response and Request for Reconsideration because:

(a) it is believed that the amendment of claim 1 puts this application into condition for allowance;

(b) the amendment was not earlier presented because the Applicants believed in good faith that the cited prior art did not disclose the present invention as previously claimed;

(c) the amendments place the application at least into a better form for appeal. No new features or new issues are being raised; and/or

(d) certain of the references applied to the claims are newly cited in the final Office Action, and Applicants should be provided the opportunity to present patentability arguments and amendments in view thereof.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." (Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTION UNDER 35 U.S.C. §112:

In the Office Action, at page 2, numbered paragraph 5, claim 1 was rejected under 35 U.S.C. §112, first paragraph, for the reasons set forth therein. This rejection is traversed and reconsideration is requested.

Groups III and IV have been canceled from claim 1. Hence, this rejection is now moot.

REJECTION UNDER 35 U.S.C. §103:

A. In the Office Action, at pages 3-5, numbered paragraph 6, claims 1-4, 6, 12-15 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kato et al. (USPN 6,316,101; hereafter, Kato) in view of Mortlock et al. (USPN 5,562,984; hereafter Mortlock) and Kamachi et al. (USPN 5,187,226; hereafter, Kamachi). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

Independent claim 1 has been amended.

The Examiner admits "Kato fails to teach the addition of the blends of components as recited in the claims" (see page 3 of the Office Action). In addition, Kato teaches the use of a particular phosphorus compound, as is seen in the Abstract of Kato and Kato's Examples. The Abstract of Kato is set forth below for the convenience of the Examiner:

There are disclosed polyester fibers that are composed of at least 90% by weight of poly(trimethylene terephthalate) and have a limiting viscosity of 0.4-2, being characterized by containing a phosphorus compound at 10-250 ppm in terms of weight of elemental phosphorus, containing no more than 3 wt % of cyclic dimers, containing no more than 2 wt % of bis(3-hydroxypropyl) ether copolymerized with the poly(trimethylene terephthalate), and having a birefringence of 0.03 or greater. The polyester fibers are poly(trimethylene terephthalate)-based fibers with excellent whiteness and tenacity, which are obtained by melt spinning of poly(trimethylene terephthalate) resin composition with improved whiteness, melt stability and spinning stability. The polyester fibers of the invention have satisfactory processability and can be mixed with stretch fibers and the like to provide fabrics having functions that cannot be obtained with commonly used polyester fibers and nylon fibers, for various types of clothing products and the like. (emphasis added)

That is, Kato recites the requirement of trimethyl phosphate, tributyl phosphate, or tributyl phosphite (see Examples), which are not required in the present application.

Hence, Kato teaches away from the present application.

The Examiner submits that Mortlock provides a polyester composition in which hindered phenol antioxidants are used such as Irganox 1010 as well as hindered phenol Irganox 1098. However, as is set forth in Example 1 of Mortlock, recited below for the convenience of the Examiner, Mortlock also requires the use of a phosphoric acid stabilizer, thus teaching away from the present application:

EXAMPLE 1

Terephthalic acid was reacted with ethylene glycol to form bis-(2-hydroxyethyl) terephthalate and low oligomers thereof, in a standard direct esterification reaction. At the end of the direct esterification reaction 400 ppm of phosphoric acid stabiliser was added, followed by 500 ppm of antimony trioxide polycondensation catalyst and 500 ppm of "Irganox 1010" antioxidant. 0.3% of silica of particle size 4 µm, and 0.3% of titanium

dioxide of particle size 0.2 μm were also added at this stage. A standard batch polycondensation reaction was performed until the intrinsic viscosity of the resultant polyethylene terephthalate was approximately 0.52. The polyethylene terephthalate was further polymerised by means of a batch solid phase polymerisation process, until the intrinsic viscosity (IV) of the polyethylene terephthalate was approximately 0.7 to 0.75. The solid phase polymerisation process utilised a fluidised bed, fluidised with nitrogen. (emphasis added)

The present application suppresses generation of acrolein as well as deterioration of color tone. A PTT-based composition generally tends to cause emission of acrolein, which is a problem, as is noted on page 3, lines 8-13 of the specification.

Kato tends to obtain a polymer excelled in whiteness, spinning stability and melting stability. However, the problem of acrolein generation is not raised in the use of other polyesters such as PET. Kato is silent about solving the need to suppress acrolein emission which is encountered in PTT-based compositions, a problem which is solved by the present application.

The Examiner further submitted that Kamachi uses Irganox 1098, which has both the hindered phenol group of Component A as well as the secondary amine group of Component B such that it meets the limitations of component C. However, Kamachi teaches a vinyl alcohol polymer, not a polyester, as is seen from the Abstract of Kamachi, set for the below for the convenience of the Examiner:

Vinyl alcohol polymers having a high syndiotacticity and a high degree of polymerization. They are useful as water-resistant films, heat-resistant films, material for high-strength gel and as paper processing agents. (emphasis added)

Since vinyl alcohol polymers are different from polyesters, it is respectfully submitted that Kamachi teaches away from the present application.

Utilizing the cited phosphorus compounds influences a reaction and the reaction products. Vinyl alcohol polymers are different from polyesters. In the world of experimental chemistry such differences are very important. That is, chemical reactions tend to be difficult to predict due to interactions between component side chains, bulky substituents causing different tertiary configurations that may also be affected by charges in the immediate vicinity, and many other factors.

For example, as reported by Texas Tech University (2008, January 18), in the following article published at <http://sciencedaily.com/releases/2008/01/080106185137.htm>, and recited below for the convenience of the Examiner, scientists were surprised by a chemical reaction fundamental to biochemistry:

Surprising Gymnastics Discovered In One Type Of Chemical Reaction Fundamental To Biochemistry

ScienceDaily (Jan. 18, 2008) — When they started, they expected to see a run-of-the-mill chemical reaction.

What they discovered was an atomic-level dance that no one predicted.

After three years of study, researchers at Texas Tech University and the Physics Institute of the University of Freiburg, Germany, have found that one type of a certain chemical reaction fundamental to cellular biochemistry is actually more complex than originally thought.

Knowledge of how these SN2 chemical reactions occur at the atomic level could mean better-engineered drugs or a greater understanding of metabolic chemistry and medicine, said William "Bill" Hase, the Robert A. Welch Professor of Chemistry in the Department of Chemistry and Biochemistry at Texas Tech University.

"Understanding this kind of reaction in terms of cell biology may help us to predict rates of chemical changes in a cell and understand how changes of molecular structure affect cell function," Hase said. "When you take drugs, they are there to alter the chemistry of the cell, or to alter the course of a chemical process. To understand exactly how these types of SN2 reactions occur could lead to changes in how we design drugs."

Their work was published in the December issue of *Science*. It was funded by grants from the National Science Foundation and the Robert A. Welch Foundation.

Hase, a pioneer of computerized simulations of chemical reactions, said that the SN2 reaction is fundamental to cellular metabolism. Hase, with research colleagues U. Lourderaj and Jiaxu Zhang, used supercomputers to generate exactly what happens in the SN2 reaction when a chloride ion came in contact with methyl iodide (CH₃I).

"We discovered a fundamentally new mechanism for this reaction that no one would have discovered without computer simulation," Hase said. "We discovered there was an exciting new way that the atoms move for the reaction to occur. I could never have conceived of how this type of reaction occurs before I'd seen the actual computer simulation."

Instead of a linear-type reaction, where the chloride ion knocks the iodine atom off the compound, Hase found that the chloride ion actually roundhouse kicks the methyl iodide compound in a circle before the iodide ion falls off. Researchers weren't expecting to see the complex gymnastics involved, he said. (emphasis added)

Philip Smith, senior director of Texas Tech's High Performance Computing Center, said Hase's research numerically simulates collections of atoms, and is a very computer-intensive endeavor.

Some of his simulations may run for weeks or even months on 32 or more processors, Smith said. Usually, these computers must run hundreds of such simulations to obtain chemically meaningful results.

"These computations lead to insights on how atoms react to form molecules and how catalysts work," Smith said. "It is our job at the High Performance Computing Center to help configure the hardware and software to support such activities. We also 'tune' the codes that Bill uses so that they run two to 10 times faster than they would 'out of the box.'"

As noted above, simply combining first research results with second research results to

try to achieve a goal is not generally a readily predictable method of achieving a result in chemistry. The number of factors affecting a result is simply too great, and many times all the factors affecting the reaction are not completely known, as is demonstrated in the above article.

It is known that organic compounds are compounds in which elements mainly attached to carbon structures combine, and due to various combinations, a large number of compounds having various characteristics are formed. Even if two compounds differ only by one carbon, the characteristics may be very different. As for isomers, even though the molecular formula is the same, the characteristics of the isomers may be different.

In KSR International Co. v. Teleflex Inc., 127 S. Ct. 1727 (2007), the Supreme Court noted that an invention may have been obvious “[w]hen there [was] . . . a design need or market pressure to solve a problem and there [were] . . . a finite number of identified, predictable solutions.” 127 S. Ct. at 1742 (tense changes supplied to clarify, as the Court stated and as per 35 U.S.C. § 103, that the obviousness inquiry must rely on evidence available “at the time” of the invention, see *Takeda*, 492 F.3d at 1356 n.2). The Supreme Court’s analysis in KSR thus relies on several assumptions about the prior art landscape. First, KSR assumes a starting reference point or points in the art, prior to the time of invention, from which a skilled artisan might identify a problem and pursue potential solutions. Second, KSR presupposes that the record up to the time of invention would give some reasons, available within the knowledge of one of skill in the art, to make particular modifications to achieve the claimed compound. See *Takeda*, 492 F.3d at 1357 (“Thus, in cases involving new chemical compounds, it remains necessary to identify some reason that would have led a chemist to modify a known compound in a particular manner to establish prima facie obviousness of a new claimed compound.”). Third, the Supreme Court’s analysis in KSR presumes that the record before the time of invention would supply some reasons for narrowing the prior art universe to a “finite number of identified, predictable solutions,” 127 S. Ct. at 1742.

Hence, it Supreme Court has acknowledged that in chemical reactions in particular, results are not as predictable, and that a finite number of identified, predictable solutions may not be available.

Thus, it is respectfully submitted that the cited references do not teach or suggest the present application to a person skilled in the art.

Thus, it is respectfully submitted that independent claims 1 and 26 are patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984) and Kamachi et al. (USPN 5,187,226), alone or in combination. Since claims 2-4, 6, and 12-15 depend from independent claim 1, claims 2-4, 6, and 12-15 are patentable under

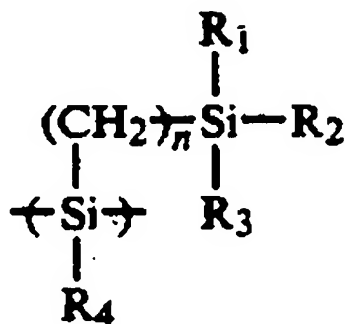
35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984) and Kamachi et al. (USPN 5,187,226), alone or in combination, for at least the reasons independent claim 1 is patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984) and Kamachi et al. (USPN 5,187,226), alone or in combination.

B. In the Office Action, at pages 5-6, numbered paragraph 7, claims 5 and 16-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kato et al. (USPN 6,316,101; hereafter, Kato) in view of Mortlock et al. (USPN 5,562,984; hereafter Mortlock), Kamachi et al. (USPN 5,187,226; hereafter, Kamachi), Takenouchi et al. (USPN 5,273,852; hereafter, Takenouchi) and Gross et al. (USPN 6,569,958; hereafter, Gross). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

The reasons that independent claim 1 is submitted to be patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984) and Kamachi et al. (USPN 5,187,226), alone or in combination, are set forth above.

It is respectfully submitted that, as may be seen from the Abstract of Takenouchi, set forth below for the convenience of the Examiner, Takenouchi teaches a polysilane compound, which is different from the polytrimethylene terephthalate composition of independent claim 1 of the present application:

An electrophotographic photoreceptor is disclosed. The photoreceptor comprises a conductive support and provided thereon, a layer comprising a carrier generating material and a polymer having a repetition unit represented by the following formula (1);



formula (1)

wherein R₁, R₂, R₃, and R₄ independently represent a hydrogen atom, an alkyl group, an alkoxy group, an alkenyl group, an aryl group, an alkylsilyl group or an arylsilyl group, and n is a natural number. (emphasis added)

It is respectfully submitted that the composition of claim 1 of the present application is different from the composition of Takenouchi, and that, as noted above, chemical reactions tend to be difficult to predict due to interactions between component side chains, bulky substituents causing different tertiary configurations that may also be affected by charges in the immediate vicinity, and many other factors.

Hence, it is respectfully submitted that Takenouchi teaches away from independent claim 1 of the present application.

As is seen from the Abstract of Gross, set forth below for the convenience of the Examiner, Gross teaches thermoplastic silicon elastomers comprising a diorganopolysiloxane, which is different from the polytrimethylene terephthalate composition of independent claim 1 of the present application:

A method of preparing a thermoplastic elastomer, and compositions thereof, are disclosed comprising: (I) mixing (A) a thermoplastic resin comprising more than 50 percent by volume of a polyester resin having a softening point of 23°C to 300°C, (B) a silicone elastomer comprising a diorganopolysiloxane, where the weight ratio of said silicone elastomer to said thermoplastic resin is from 35:65 to 85:15, (C) a glycidyl ester compatibilizer, (D) an organohydrido silicon compound, and (E) a hydrosilation catalyst, components (D) and (E) being present in an amount sufficient to cure said diorganopolysiloxane; and (II) dynamically vulcanizing said diorganopolysiloxane, wherein at least one property of the thermoplastic elastomer selected from tensile strength or elongation is at least 25% greater than the respective property for a corresponding simple blend wherein said diorganopolysiloxane is not cured and said thermoplastic elastomer has an elongation of at least 30%. (emphasis added)

Hence, it is respectfully submitted that Gross teaches away from amended independent claim 1 of the present application.

Thus, it is respectfully submitted that independent claim 1 of the present application is patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226), Takenouchi et al. (USPN 5,273,852) and Gross et al. (USPN 6,569,958), alone or in combination. Since claims 5 and 16-17 depend, directly or indirectly, from independent claim 1, claims 5 and 16-17 are patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226), Takenouchi et al. (USPN 5,273,852) and Gross et al. (USPN 6,569,958), alone or in combination, for at least the reasons independent claim 1 is patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226), Takenouchi et al. (USPN 5,273,852) and Gross et al. (USPN 6,569,958), alone or in combination.

C. In the Office Action, at pages 6-7, numbered paragraph 8, claims 7-8 and 18-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kato et al. (USPN 6,316,101; hereafter, Kato) in view of Mortlock et al. (USPN 5,562,984; hereafter Mortlock), Kamachi et al.

(USPN 5,187,226; hereafter, Kamachi) and Stauffer et al. (USPN 5,256,717; hereafter, Stauffer). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

The reasons that independent claim 1 is submitted to be patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984) and Kamachi et al. (USPN 5,187,226), alone or in combination, are set forth above.

It is respectfully submitted that, as is set forth in the Abstract of Stauffer, recited below for the convenience of the Examiner, Stauffer teaches hot melt adhesives, and in particular, a composition comprising a combination of 5 to 50% by weight of an isotactic thermoplastic polybutylene copolymer or a low density ethylene polymer with 3 to 65% by weight of a solid benzoate plasticizer, but does not teach or suggest a from the polytrimethylene terephthalate composition comprising a polymer component and at least one component selected from the group consisting of: (I) a combination of Component A and Component B, and (III) a combination of Component A, Component B and Component C, that are used in independent claim 1 of the present application:

Hot melt adhesives having suitable open time and crystallinity properties making them especially useful as temporary adhesives are provided by a composition comprising a combination of 5 to 50% by weight of an isotactic thermoplastic polybutylene copolymer or a low density ethylene polymer with 3 to 65% by weight of a solid benzoate plasticizer. (emphasis added)

The Examiner submits that Stauffer teaches a polymeric material with a hindered phenol antioxidant with a synergist such as distearylthiodipropionate (which contains a sulfur atom and is a thioether). However, as pointed out above, different chemicals react in different manners, and chemical reactions tend to be difficult to predict due to interactions between component side chains, bulky substituents causing different tertiary configurations that may also be affected by charges in the immediate vicinity, and many other factors.

Hence, it is respectfully submitted that Stauffer teaches away from independent claim 1 of the present application.

Thus, it is respectfully submitted that independent claim 1 of the present application is patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226) and Stauffer et al. (USPN 5,256,717), alone or in combination. Since claims 7-8 and 18-19 depend, directly or indirectly, from independent claim 1, claims 7-8 and 18-19 are patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226) and Stauffer et al. (USPN 5,256,717), alone or in combination, for at least the reasons independent claim 1 is patentable under 35 U.S.C. §103(a) over Kato et al. (USPN

6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226) and Stauffer et al. (USPN 5,256,717), alone or in combination.

D. In the Office Action, at pages 7-8, numbered paragraph 9, claims 9-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kato et al. (USPN 6,316,101; hereafter, Kato) in view of Mortlock et al. (USPN 5,562,984; hereafter Mortlock), Kamachi et al. (USPN 5,187,226; hereafter, Kamachi), and Hwo et al. (US 2002/0127939; hereafter, Hwo). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

The reasons that independent claim 1 is submitted to be patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984) and Kamachi et al. (USPN 5,187,226), alone or in combination, are set forth above.

The Examiner submits: "Hwo teaches a PTT blend with polyethylene terephthalate (PET) and polybutylene terephthalate (PBT) in a ratio from 1:99 and 99:1." However, it should be noted that neither PET nor PBT include a secondary amine, as is utilized in independent claim 1 of the present application. Hence it is respectfully submitted that Hwo teaches away from independent claim 1 of the present application.

Thus, it is respectfully submitted that independent claim 1 of the present application is patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226), and Hwo et al. (US 2002/0127939), alone or in combination. Since claims 9-11 depend from independent claim 1, directly or indirectly, claims 9-11 are patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226), and Hwo et al. (US 2002/0127939), alone or in combination, for at least the reasons independent claim 1 is patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226), and Hwo et al. (US 2002/0127939), alone or in combination.

E. In the Office Action, at pages 8-9, numbered paragraph 10, claims 20-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kato et al. (USPN 6,316,101; hereafter, Kato) in view of Mortlock et al. (USPN 5,562,984; hereafter Mortlock), Kamachi et al. (USPN 5,187,226; hereafter, Kamachi), Stauffer et al. (USPN 5,256,717; hereafter, Stauffer), and Hwo et al. (US 2002/0127939; hereafter, Hwo). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

The reasons that independent claim 1 is submitted to be patentable under

35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984) Kamachi et al. (USPN 5,187,226), and Hwo et al. (US 2002/0127939), alone or in combination, are set forth above.

As noted above, Stauffer teaches hot melt adhesives, and in particular, a composition comprising a combination of 5 to 50% by weight of an isotactic thermoplastic polybutylene copolymer or a low density ethylene polymer with 3 to 65% by weight of a solid benzoate plasticizer, but does not teach or suggest the polytrimethylene terephthalate composition comprising a polymer component and at least one component selected from the group consisting of: (I) a combination of Component A and Component B, and (II) a combination of Component A, Component B and Component C, that are used in independent claim 1 of the present application. Hence, Stauffer teaches away from independent claim 1 of the present application.

Hence, it is respectfully submitted that independent claim 1 of the present application is patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226), Stauffer et al. (USPN 5,256,717), and Hwo et al. (US 2002/0127939), alone or in combination. Since claims 20-25 depend from independent claim 1 of the present application, claims 20-25 are patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226), Stauffer et al. (USPN 5,256,717), and Hwo et al. (US 2002/0127939) for at least the reasons independent claim 1 is patentable under 35 U.S.C. §103(a) over Kato et al. (USPN 6,316,101) in view of Mortlock et al. (USPN 5,562,984), Kamachi et al. (USPN 5,187,226), Stauffer et al. (USPN 5,256,717), and Hwo et al. (US 2002/0127939).

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: February 10, 2009

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